

Baker Hostetler

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May 31, 2011

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**BY ECF**

Honorable Roanne L. Mann  
United States Magistrate Judge  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

*Re: Ross University. v. Brooklyn-Queens Health Care Inc.  
No. 09 Civ. 1410 (KAM) (RLM)*

Dear Judge Mann:

I represent plaintiff in the above-referenced action. I submit this letter to correct typographical errors contained in the letter I filed earlier today in response to defense counsel's letter to the Court of May 30, 2011.

While plaintiff does not object to defendants being granted additional time to take the depositions of plaintiff's witnesses, I do object to the tone and accusations of counsel's letter, which differ materially from the collegial discussion that I had with him yesterday afternoon and appear to be an effort to distract the Court from the fact that the defendants' predicament is the result of defendants having waited until the end of March to serve very burdensome document requests. (Defense counsel discusses the Court's involvement in requiring defendant to respond to plaintiff's request, without noting that those requests have been outstanding since *December, 2009*.)

The ESI returned by the search terms used to gather the material to respond defendants' belated request yielded nearly 70,000 pages of material. We have been culling that material for responsive documents and producing them since that time. Far from making a "stealth" production, plaintiff made an initial production of 15,000 pages of this material in April at which time we expressly informed counsel in writing that more material would be forthcoming as the review progressed. See Exh. 1 attached hereto. Plaintiff made an additional production of about 16,000 pages on May 28, 2011. We believe that there are about 650 search term "hits" still to review and any records in that cohort that may be responsive will be produced today.

Chicago Cincinnati Cleveland Columbus Costa Mesa  
Denver Houston Los Angeles New York Orlando Washington, DC

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Honorable Roanne L. Mann

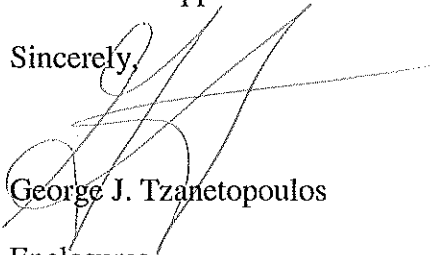
May 31, 2011

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In my conversation with counsel yesterday, he cordially acknowledged that defendants' request had not been made until March, agreed that plaintiff had informed defendants that material was still forthcoming, assured me that he was aware that plaintiffs' counsel had expended a great deal of effort to produce the material and had acted in good faith, and expressed appreciation for plaintiff's adoption of the position that it would not object to depositions of plaintiff's witnesses being taken at a later date if defense counsel needed the time. The volte-face in the letter to the Court is startling.

That being said, plaintiff will stand by its position that it does not object to additional time being granted for defendants to take depositions concerning these records. The rest of defendants' application should be denied.

Sincerely,



George J. Tzanetopoulos

Enclosures

cc: Walter P. Loughlin

# Exhibit 1

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April 20, 2011

**VIA OVERNIGHT COURIER**

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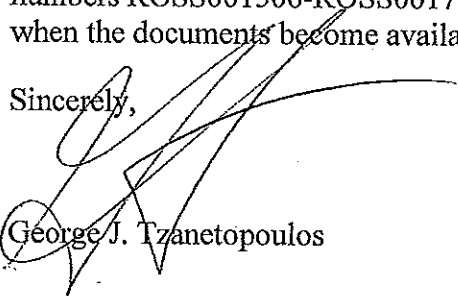
Walter P. Loughlin, Esq.  
K&L Gates LLP  
599 Lexington Avenue  
New York, NY 10022-6030

Re: *Ross University v. Brooklyn Queens Health Care, et al.*  
09-cv-1410 (KAM)(RLM)

Dear Pat:

Please find the enclosed disc containing Plaintiff's production of documents—bates numbers ROSS001506-ROSS0017156. We will send you a supplemental production when the documents become available.

Sincerely,



George J. Tzanetopoulos

Enclosure